

EXHIBIT "D"

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SHASTA.

BEE CREEK DITCH AND WATER COMPANY,
a corporation,

Plaintiff

-vs-

HAPPY VALLEY LAND AND WATER COMPANY,
a Corporation, et al.,

Defendants.

- - - - -

SUNNY HILL MINING COMPANY, a Cor-
poration,

Cross-Plaintiff,

-vs-

BEE CREEK DITCH AND WATER COMPANY,
a corporation, HAPPY VALLEY LAND
AND WATER COMPANY, a Corporation,
HAPPY VALLEY IRRIGATION DISTRICT,
a body politic and corporate, MARY
DRISCOLL, JOHN GRANT, FRANK A. GREENE,
SARAH E. GREENE, B. R. HAMLIN and
SALLIE GRANT,

Cross-Defendants.

DEGREE

Case # 5479

This cause having been referred to the State Water Commission as
referee, the parties hereto having thereafter stipulated that the said
referee might report, for the approval of this Court, a decree containing
provisions set forth in said stipulation, and said parties having further
stipulated that Findings of Fact and Conclusions of Law herein be waived,
and State Water Commission, as referee, having filed its report herein,
which report embodied said stipulation of the parties, and said matter
being finally submitted to the Court on said report, including said stip-
ulation, the Court hereby renders judgment, and it is hereby ORDERED,
ADJUDGED AND DECREED, That

I.

JOSEPH H. MOON is entitled to divert from the natural
flow of the West Fork of the North Fork of Cottonwood (or Moon

1 Creek) into the "Moon" and "Becker" Ditches at the heads of said
2 ditches as they now exist, a continuous flow of 1-5/8ths cubic feet
3 per second (65 miner's inches), during the irrigation season, and
4 to divert from said natural flow 4 miner's inches for domestic and
5 stock watering purposes throughout the remainder of each year; all
6 of said water to be used on land described as follows:

7 *Tracts 1 and 4* Lots 2, 3 and 4, of Sec. 19, T. 31 N., R. 7 W.,
8 Lots 2 and 3 and E. 1/2 of SW 1/4 of Sec. 30, T. 31 N.,
9 R. 7 W., SE 1/4 of Sec. 24, and E. 1/2 of E. 1/2 of Sec. 25,
10 T. 31 N., R. 8 W. *OUT*

11 II.

12 JAMES GOBEL is entitled to divert from the natural flow
13 of the North Fork of Cottonwood Creek into the "Gobel Ditch" at the
14 present point of diversion, a continuous flow of 3/10ths of a cubic
15 foot per second (12 miner's inches) throughout the irrigation sea-
16 son, and 2 miner's inches for domestic and stock watering purposes
17 throughout the remainder of each year. Said James Gobel is fur-
18 ther entitled to a continuous flow of 36 miner's inches throughout
19 the year for the purpose of turning a water wheel for power pur-
20 poses, said water so diverted for power purposes to be returned to
21 said stream on the premises of said James Gobel. All of said water
22 shall be used on land described as follows:

23 *Tract 2* Being that portion of the Gobel Ranch lying in the
24 Southwest quarter of the Northeast Quarter and the South-
25 east Quarter of the Northwest Quarter of Section 20, Town-
26 ship 31, North, Range 7 West, M.D.M.

27 III.

28 THE HAPPY VALLEY IRRIGATION DISTRICT is entitled to di-
29 vert from the natural flow of the North Fork of Cottonwood Creek
30 a continuous flow of 12 miner's inches during the irrigation season
31 to be diverted at the present head of the "Forrester Ditch", and
to be used on land described as follows:

Tract 3 Being that tract of land known as the Forrester
Ranch situated in the Southwest quarter of Section 20

1 and the Northwest Quarter of Section 29, Township 31
2 North, Range 7 West, M.D.M.

3 IV.

4 *Tract 14* THE HAPPY VALLEY IRRIGATION DISTRICT is entitled to di-
5 vert from the natural flow of the North Fork of Cottonwood Creek a
6 continuous flow of 16 cubic feet per second (640 miner's inches)
7 throughout the irrigation season, to be diverted into the "Happy
8 Valley Land & Water Company's Ditch" at the head of said ditch as
9 it now exists, or into said ditch through a tunnel known as the
10 Hoover Tunnel, now in course of construction; to the natural flow
11 of ^{DUNN} Hoover Creek, Doherty Creek, Byron Creek and Hulen Creek, reaching
12 the aforesaid ditch, to be diverted at the points where said ditch
13 crosses said respective creeks; and to all the natural flow of
14 Eagle Creek, reaching the head of "Eagle Creek Ditch" to be diverted
15 through said Eagle Creek Ditch and reaching the head of the "Gill
16 Ditch", through said Gill Ditch, near the town of Ono.

17 V.

18 *Tract 5* THE SUNNY HILL MINING COMPANY is entitled to divert from
19 the natural flow of the North Fork of Cottonwood Creek a continuous
20 flow of 2 cubic feet per second throughout each year, provided that
21 all of said water except 2 miner's inches for domestic purposes
22 throughout the year, be returned to said stream at the tailrace of
23 the present power plant of said company, and provided further that
24 no water except the said allowance for domestic purposes, shall be
25 diverted by said company except when needed for mining and milling
26 purposes.

27 VI.

28 *Tracts 6 and 8* SARAH E. GREENE, FRANK A. GREENE and B. R. HAMLIN are entitled
29 to divert from the natural flow of Jerusalem Creek, into Jerusalem
30 Ditch at the present point of diversion, such quantity of water as
31 will cause a continuous flow of 2.5 cubic feet per second
(100 miner's inches), at the division box now used by said parties

1 at its present location in said ditch about four miles below the
2 said point of diversion, throughout the irrigation season, and to a
3 continuous flow for domestic and stock watering purposes of 15
4 miner's inches, at said division box, during the remainder of each
5 year; all of said water to be divided one-half to said Sarah E.
6 Greene and Frank A. Greene, and one-half to said B. R. Hamlin.

7 VII.

8 JOHN GRANT is entitled to divert from the natural flow of
9 the North Fork of Cottonwood Creek a continuous flow of 1/20th of
10 a cubic foot per second (2 miner's inches) throughout the irri-
11 gation season, to be diverted at the head of the "John Grant Pipe
12 Line", said water to be used on land described as follows:

13 *Tract 7* Being that portion of the John Grant Homestead located
14 in the South Half of the Southeast Quarter of Section 18,
15 Township 30 North, Range 7 West, M.D.M.

16 VIII.

17 *Out* ALICE S. BAKER is entitled to divert from the natural flow
18 of Hoover Creek a continuous flow of 1/4th of a cubic foot per
19 second (10 miner's inches), to be diverted into the "Baker Ditch"
20 at the present point of diversion, throughout the irrigation season,
21 and to divert 2 miner's inches for domestic and stock watering pur-
22 poses throughout the remainder of the year; all of said water to be
23 diverted in to "Baker Ditch" at the present point of diversion
24 and to be used on land described as follows:

25 South half of Northeast Quarter and the East Half of
26 the Northwest Quarter of Section 28, Township 31 North,
27 Range 7 West, M.D.M., in the County of Shasta, State of
California, containing 160 acres.

28 IX.

29 *Out* MARY DRISCOLL is entitled to divert from the natural flow
30 of Hoover Creek throughout the irrigation season 4/5ths of a cubic
31 foot per second (32 miner's inches) to be diverted into the "Dis-
coll Ditches" at the present points of diversion, and to be used on
land described as follows:-

1 Being the Driscoll ranch located in Sections 4 and
2 5 of Township 30 North, Range 7 West, M.D.M., and in
3 Section 32 of Township 31 North, Range 7 West, M.D.M.,
4 and the surplus used on the land of said District known
5 as the "Company Ranch" in Sections 4 and 5, Township
6 30 North, Range 7 West, M.D.M.

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X.

THE BEE CREEK DITCH & WATER COMPANY is entitled to divert
from the natural flow of the North Fork of Cottonwood Creek, through-
out the irrigation season, a continuous flow of 5.1 cubic feet per
second (204 miner's inches), and to a continuous flow throughout
the remainder of the year for domestic and stock watering purposes
of 2 cubic feet per second (80 miner's inches); all of said water
to be diverted at the present intake of the "Bee Creek Ditch &
Water Company's Ditch" and to be used on land described as follows:

Tract 9
The West Half of the Southwest Quarter of Section 14,
the South Half of Section 15, the Northeast Quarter of
Section 20, the West Half of the West Half of Section 20,
the West Half of the Northwest Quarter of Section 21, the
Northwest Quarter of the Southeast Quarter, the North Half
of the Southwest Quarter, Southwest Quarter of the South-
west Quarter of Section 21, all in Township 30 North, Range
7 West, M.D.M.; the Northeast Quarter of Section 23, Town-
ship 30 North, Range 7 West, M.D.M.; the North Half of
Section 15 Township 30 North, Range 7 West, M.D.M.; the
Northwest Quarter of Section 22, the East Half of the
Southeast Quarter, the Northwest Quarter of the Southeast
Quarter, the North Half of the Northwest Quarter, the North
Half of the Southwest Quarter, the South Half of the North-
west Quarter of Section 23, the North Half of the Southwest
Quarter, the Southwest Quarter of the Northwest Quarter, the
North Half of the Northwest Quarter, the Northwest Quarter
of the Northeast Quarter, the Northeast Quarter of the North-
east Quarter, the Southwest Quarter of the Northeast Quarter
of Section 24, Township 30 North, Range 7 West, M.D.M.; the
Southwest Quarter of Section 10, Township 30 North, Range 7
West, M.D.M.; the South Half of the Southwest Quarter, the
Southwest Quarter of the Southeast Quarter of Section 23,
the South Half of the North Half, the North Half of the
South Half, the Northeast Quarter of the Northeast Quarter,
the Northwest Quarter of the Northwest Quarter, the North-
east Quarter of the Northwest Quarter, the Northwest Quarter
of the Northeast Quarter of Section 26, the East Half of the
Northeast Quarter of Section 27, the Southeast Quarter of
Section 27, the North Half of the Northeast Quarter of Sec-
tion 35, all in Township 30 North, Range 7 West, M.D.M.,
The South Half of the South Half of Section 26, Northwest
Quarter of Section 35, the South Half of the Northeast Quar-
ter of Section 35, the Northwest Quarter of Section 36,

Township 30 North, Range 7 West, M.D.M., the South Half of the Northwest Quarter, the East Half of the Southwest Quarter, the West Half of the Southeast Quarter, the East Half of the Southeast Quarter of Section 14, Township 30 North, Range 7 West, M.D.M., the South Half of the Northeast Quarter of the Northeast Quarter, the South Half of the Northeast Quarter North of Cottonwood Creek and the South Half of the Northwest Quarter of the Northeast Quarter of Section 11, less strip sold to Susan Albright, all in Township 30 North, Range 7 West, M.D.M., the Northwest Quarter of Section 34, Township 30 North, Range 7 West, M.D.M., the South Half of the Southwest Quarter of Section 11, the North Half of the Northwest Quarter of Section 14, Township 30 North, Range 7 West, M.D.M., the Southeast Quarter of Section 11, all of the South Half of the Northeast Quarter of Section 11 South of Cottonwood Creek, the Southwest Quarter of the Southwest Quarter of Section 12, the West Half of the Northwest Quarter of Section 13, the Northeast Quarter of Section 14, all in Township 30 North, Range 7 West, M.D.M., that portion of the Southeast Quarter of the Southwest Quarter of Section 12, Township 30 North, Range 7 West, M.D.M., South and West of North Fork of Cottonwood Creek, the North Half of the South Half, the East Half of the Northwest Quarter, the East Half of the Northeast Quarter, the Southwest Quarter of the Northeast Quarter of Section 13, Township 30 North, Range 7 West, M.D.M., the South Half of the Southwest Quarter and the South Half of the Southeast Quarter of Section 13, Township 30 North Range 7 West, M.D.M., the Southeast Quarter of the Northeast Quarter, the Southwest Quarter of the Northwest Quarter of Section 10, Township 30 North, Range 7 West, M.D.M., the Northeast Quarter of the Southwest Quarter, the Northwest Quarter of the Southwest Quarter, the South Half of the Northwest Quarter of Section 11, Township 30 North, Range 7 West, M.D.M.

XI.

MARY S. SWEENEY and FRANCISCO R. HENRIQUES, also known as FRANK R. HENRIQUES, are entitled to divert from the natural flow of the North Fork of Cottonwood Creek a continuous flow of 2.5 second feet (100 miner's inches) throughout the irrigation season, to be diverted at the present intake of the "McClanahan & White Ditch", and to be divided and used on land described as follows: Mary S. Sweeney, 94 inches to be used on the following described land:

Tract 10
 $\frac{1}{2}$ of the NE $\frac{1}{4}$, SE $\frac{1}{4}$ and E $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 21, and that part of Section 28 which lies on the Northeast side of the North Fork of Cottonwood Creek, particularly described as follows: COMMENCING at the Northeast corner of said Section 28, and running thence West on the section line to the North Fork of Cottonwood Creek; thence down said Creek to the East line of said Section 28; thence North on section line to the place of beginning - all of said land being in Township 30 N., Range 6 W., M.D.M.;

1 Francisco R. Henriques, also known as Frank R. Henriques, 6 inches
2 to be used on the following described land:

3 *Tract 10* $\frac{1}{2}$ of Section 16, Township 30 N., Range 6 W., M.D.M.

5 XII.

6 HENRY HIENS, HENRIETTA HIENS, JOHN H. PONTE and FLORENCE
7 E. PONTE are entitled to divert from the natural flow of the North
8 Fork of Cottonwood Creek a continuous flow of 1.75 cubic feet per
9 second throughout the irrigation season, to be diverted at the
10 present intake of the "Schuman-Reagan Ditch" and to be used on land
11 described as follows:-

12 *Tract 12* North Half ($\frac{1}{2}$) of the Northwest Quarter ($\text{NW}\frac{1}{4}$), South-
13 west Quarter ($\text{SW}\frac{1}{4}$) of the Northwest Quarter ($\text{NW}\frac{1}{4}$), and
14 Northwest Quarter ($\text{NW}\frac{1}{4}$) of the Southwest Quarter ($\text{SW}\frac{1}{4}$) a
of Section Thirty-four (34), Township Thirty (30) North,
Range Six (6) West, M.D.M.

15 *Tract 11* West Half ($\frac{1}{2}$) of the Southwest Quarter ($\text{SW}\frac{1}{4}$) of
16 Section Twenty-seven (27), Township Thirty (30) North,
Range Six (6) West, M.D.M.

17 Southeast Quarter ($\text{SE}\frac{1}{4}$) of the Southwest Quarter
18 ($\text{SW}\frac{1}{4}$) and the West Half ($\frac{1}{2}$) of the Northeast Quarter
19 ($\text{NE}\frac{1}{4}$) of the Southwest Quarter ($\text{SW}\frac{1}{4}$) of Section Twenty-
Seven (27), Township Thirty (30) North, Range Six (6)
West, M.D.M., containing sixty (60) acres.

20 XIII.

21 THE SHASTA DREDGING COMPANY is entitled to divert from
22 the natural flow of the North Fork of Cottonwood Creek, throughout
23 the year, for domestic and stock watering purposes and irrigation,
24 a continuous flow of $\frac{1}{8}$ th of a cubic foot per second (5 miner's
25 inches), to be diverted at the intake of the suction pipe of the
26 pump at present installed by said Company, and to be used on land
27 described as follows;

28 *Tract 13* The Southeast Quarter of the Northwest Quarter, the
29 Southwest Quarter of the Northeast Quarter, and the North
30 Half of the Southeast Quarter of Section 34, Township 30
North, Range 6 West, M.D.M.

XIV

"Miner's inches" as herein used is defined to mean 1/40th of a cubic foot per second. "Irrigation season" as herein used is defined to mean the period beginning March 15th and ending November 1st of each year.

XV

Should at any time the natural flow in the North Fork of Cottonwood Creek from all natural sources except the tributaries known as Hoover Creek, Dobeay Creek, Byron Creek, Eagle Creek and Hulen Creek, be insufficient to supply the water hereinbefore allotted to the said Happy Valley Irrigation District (for the purposes of this paragraph the allotment of 16 cubic feet per second to be diverted at the head of the "Happy Valley Land & Water Company Ditch" or "Hoover Tunnel" only to be considered), the Bee Creek Ditch & Water Company, Mary S. Sweeney, Henry Hiens, Henrietta Hiens, John H. Ponte and Florence E. Ponte and the Shasta Dredging Company, then during the continuance of such shortage, said parties in this paragraph named shall divide the water in said stream in the ratio that their allotments, as hereinbefore provided for, bear to each other. The test of the apportionment of the proportions herein provided for in this paragraph in case of such water shortage will be whether or not the respective parties mentioned in this paragraph are receiving their proportion as specified in this paragraph, at the heads of their respective ditches.

XVI

The point of measurement for all diversions shall be at the respective points of diversion from the stream, except as herein otherwise provided.

XVII

Nothing herein shall be construed as limiting or restricting the right of any two or more of said parties entering into

1 an agreement or agreements whereby said parties may pool their re-
2 spective interests for use during a limited time and thereby use a
3 greater quantity of water on their respective lands than herein
4 provided for, provided that the total use by any party on his, her
5 or its lands, shall not exceed the allotment and continuous flow
6 allowance herein provided for, in any thirty (30) day period, and
7 provided further, such use shall not impair or infringe the right
8 of any other party herein.

9 XVIII

10 Said Happy Valley Irrigation District shall establish and
11 maintain two gauging stations, one to be located on Moon Creek at
12 a point above and as near as practicable to its confluence with the
13 North Fork of Cottonwood Creek, to measure the natural flow of said
14 Moon Creek and the other to be located on the North Fork of Cotton-
15 wood Creek at a point above, but as near as practicable to, the
16 Forrester reservoir site as described in Application Number 784 filed
17 with the State Water Commission of California. Said gauging stations
18 shall be open to inspection by all the parties hereto, their agents
19 or attorneys, and to the proper agents of the State Water Commission.
20 The said two gauging stations shall be the point of measurement for
21 the diversion of Happy Valley Irrigation District, as set forth in
22 Paragraph IV of this Decree, for the purpose of apportioning waters
23 under the provisions of Paragraph XV of this Decree, the combined
24 flow of said two streams at said stations to be deemed the flow at
25 the point of diversion by said Happy Valley Irrigation District.

26 The location of the above mentioned gauges may be changed
27 or the gauging stations may be re-rated by a representative of the
28 State Water Commission upon the request of one or more of the
29 parties hereto.
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North Fork Cottonwood Creek
Decree No. 5479, Shasta County

XIX

Upon request of any party hereto, the State Water Commission of California, or in case the State Water Commission shall fail to act, then the Judge of the Superior Court of Shasta County, may appoint a water-master to distribute the water on the terms herein mentioned in accordance with the terms of this Decree, and said water-master, when so appointed, shall have power and authority to inspect and regulate the diversions of all the parties hereto in accordance with this decree, and in the exercise of such authority may enter upon the said lands of said parties for the purpose of such inspection and regulation and may establish and maintain such gauging stations and measuring devices and require such diversion works in said streams and diversion ditches and tunnels as may be necessary or convenient. The water-master, when appointed, shall continue in authority during the irrigation season for which he was appointed, unless otherwise agreed upon by all the parties hereto, but shall not hold over from one irrigation season to another.

All costs and expenses of distribution of water through the agency of such water-master shall be borne by the parties hereto in proportion to the amount of natural flow of water herein allotted to said parties.

XX

The rights granted to the Happy Valley Irrigation District by the State Water Commission of California, as set forth in Permits Numbers 531, 532 and 533 are valid rights, binding upon all the parties hereto, subject, however, to all the rights hereinbefore set forth.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, That the

1 parties herein, and each of them, and their, and each of their,
2 agents, servants, attorneys and employees, forever desist and re-
3 frain from interrupting or in any way interfering with the waters
4 of any of the streams herein mentioned so as to interrupt or in
5 anyway interfere with the beneficial use of such waters by the others
6 of said parties, or any of them, their respective heirs, successors
7 and assigns, according to their respective rights as herein set
8 forth.

9 It is furthermore ORDERED, ADJUDGED AND DECREED, that
10 the said parties pay to the Clerk of this Court within thirty
11 days from the date hereof their respective proportions of the
12 cost of investigations made by the State Water Commission as
13 referee herein as follows:

14	Joseph H. Moon,	\$ 36.40
15	James Gobel,	26.79
16	Happy Valley Irrigation District,	363.98
17	Sunny Hill Mining Company,	44.66
18	Sarah E. Greene, Frank A. Greene 19 and B. R. Hamlin,	55.77
20	John Grant,	1.12
21	Alice S. Baker,	5.58
22	Mary Driscoll	17.86
23	Bee Creek Ditch & Water Company,	113.88
24	Mary S. Sweeney & Francisco 25 B. Henriques,	55.77
26	Henry Hiena, Henrietta Hiena, John H. Ponte and Florence E. Ponte,	39.08
27	The Shasta Dredging Company,	2.68

28 and that said Clerk transmit said sums when so paid to the State
29 Water Commission.

30 Dated: June 9, 1920

31 JAMES W. BARTLETT

JUDGE.